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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ ITA 116/2019 & CM APPL. 5252/2019

THE PR. COMMISSIONER
OF INCOME TAX -CENTRAL-3 ..... Appellant
Through: Mr.Piyush Kamal & Mr.Gautam Jain, Advocates

versus

RIDGE VIEW DEVELOPERS PVT. LTD ..... Respondent
Through: None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% **04.02.2019**

1. The question of law urged by the Revenue in its appeal under Section 260A of the Income Tax Act is whether the Tribunal was justified in holding that A.Y.2009-10 was covered in the six year period envisioned under Section 153A(1), overlooking the express language in the first proviso to Section 153C(1), which in turn refers to the second proviso to Section 153A(1).

2. Search and seizure operation was conducted on 05.01.2009 at various premises relating to M/s Taneja-Puri Group. In the course of search at 9, K.G. Marg, New Delhi and other premises, allegedly incriminating documents were found and seized. These included a copy of the provisional balance sheet of 30.09.2005 of the present assessee. The AO of the searched

party recorded satisfaction on 04.10.2010. In the meanwhile, the assessee filed its return for the ongoing assessment year i.e. A.Y.2009-2010 on 31.03.2010. Ultimately the assessment was completed under Section 143(3) on 31.12.2010.

3. The assessee appealed to the CIT(A) who partly accepted it. The ITAT on appeal reversed the CIT(A)'s decision holding that the AO could not have completed the assessment under Section 143(3) since an assessment had to be framed under Section 153(1) as satisfaction was recorded by the concerned AO on 04.10.2010. In doing so, the ITAT relied upon the Division Bench ruling of this Court in *Commissioner of Income Tax vs. RRJ Securities Ltd.* 380 ITR 612 (Delhi). In *RRJ Securities* (supra) this Court had held as follows:

> *"Section 153A requires that where a search has been initiated under Section 132 of the Act, the AO is required to issue notice requiring the noticee to* ***furnish returns of income in respect of six assessment years relevant to the six previous years preceding the previous year in which*** *the search is conducted. As discussed hereinbefore, by virtue of second proviso to Section 153A, the assessment/reassessment pending on the date of initiation of search abate. In the context of proceedings under Section 153C of the Act, the reference to the date of initiation of the search in the second proviso to Section 153A has to be construed as the date on which the αo receives the documents or assets from the AO of the searched person.* ***Thus, by virtue of second proviso to Section 153A of the Act as it applies to proceedings under Section 153C of the Act, the assessment/reassessment pending on the date on which the assets/documents are received by the AO would abate. In respect of such assessments which have abated, the AO would have the jurisdiction to proceed and make an assessment.*** *"*

4. We have considered the submissions of the Revenue. It is quite evident that like in *RRJ Securities* (supra), the AO of the searched person

recorded satisfaction, at a time when the assessee had filed its return for the concerned year.

5. In the circumstances, the AO upon receipt of the papers ought to have taken steps under Section 153(1) and completed the assessment in the manner known to law, in accord with the decision in *RRJ Securities* (supra). The AO's failure, therefore, was correctly interfered with. The impugned order of the ITAT was, therefore, justifiable and apposite in the facts of this case. No substantial question of law, therefore, arises.

6. The appeal is consequently dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

FEBRUARY 04, 2019

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